IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No.147 of 2003.

Date of decision: 5.10.2007.

Smt.Darshana Devi and another ….Petitioners.

-Versus-

Shri Amar Singh Barber ….Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

Whether approved for reporting? No

For the Petitioners: Mr.Romesh Verma, Advocate.

For the Respondent: Mr.Bhupinder Gupta, Senior Advocate with Ms.Charu Gupta, Advocate

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Deepak Gupta, J.(Oral)

This Civil Revision is directed against the order of the Appellate Authority constituted under the H.P. Urban Rent Control Act who dismissed the appeal filed by the petitioners and upheld the order of eviction passed against the present petitioners by the learned Rent Controller.

Briefly stated, the facts are that the respondent Amar Singh is the owner of building No.205-A, Sadar Bazar, Kasauli. The present petitioners (hereinafter referred to as the tenants) are the tenants of the premises comprising of four rooms, bath room and latrine. An eviction petition was filed by the landlord against the tenants on the grounds that the respondents are in arrears of rent since May, 1983; on the ground that the premises are bonafide required by the Landlord for his personal use and occupation and on the ground that

the premises are bonafide required by the Landlord for reconstruction. The learned Rent Controller decided all the issues in favour of the Landlord. He found that the tenants had not paid the rent from May, 1983. He also came to the conclusion that the Landlord is residing in a very small accommodation consisting of three rooms whereas his family consists of a wife, a son and daughter both of whom were studying at the relevant time. He also comes to the conclusion that the building is in a dilapidated condition and needs to be reconstructed. The appeal filed by the tenants was dismissed by the Appellate Authority. Hence, the present Revision.

At the outset it may be submitted that when this petition was admitted, the operation and execution of the impugned award was stayed. However, later it was found that the tenants had not even deposited the amount payable as arrears of rent within a period of 30 days and hence the stay order was vacated. I have been informed at the Bar that in fact the petitioners have since vacated the premises in question.

The findings on the issue of arrears of rent call for no interference. Both the Courts below have held that the tenants have failed to pay rent right from May, 1983 onwards. It would be pertinent to mention that the tenants were occupying four rooms, Bath Room and Kitchen at a paltry rent of Rs.18/- per month. Even after the Rent Controller decided the issue the tenants did not pay the rent within 30 days as permitted under law.

As far as the question of bonafide requirement is concerned it stands proved on record that the building in question is required by the Landlord for his own bonafide use and occupation. The family of the Landlord is increasing. He has young son and daughter. He is the best judge of his own requirement. The landlord cannot be forced to live in three small rooms while the tenant occupies four rooms.

It also stands proved on record that the premises in question are in a dilapidated condition and have outlived their utility. The building cannot be repaired without the eviction of the tenants. There are concurrent findings of fact of both the Courts below. No jurisdictional or legal error has been pointed out in the impugned order.

Keeping in view all the aforesaid facts, I find no merit in the Revision petition which is dismissed. No costs.

October 5, 2007. **(Deepak Gupta),**
PV **Judge**